

Mr. Morton Stavis
Center for Constitutional Rights
666 Broadway
New York, N.Y. 10012

12/10/90

Dear Mr. Stavis,

Our mutual friend Sol Rabkin sent me John R. Mac Author's oped piece in the Times of the sixth, I presume because he knows of general interest in such matters and because of my fairly extensive experiences with the FBI in FOIA matters. Mr. MacAuthor writes that your organization discovered the FBI's files on his family's foundation and that the ACLU filed suit for them, when they were withheld in claim of "national security."

I have several purposes in writing. One is to request that you ^{please} forward an enclosed copy of this letter to Mr. MacAuthor because I have no New York phone book and do not have Harper's address. Another is the possibility of providing information that may, if precedents have not been overturned and the case is still in court, may be of use to the ACLU lawyer if he is not experienced in FOIA cases. (The article does not say whether or not individuals sought to use the Privacy Act.)

Time was, if ~~you~~ ^{one} did not have a judge unduly favorable to the government, when an in camera ^{with} ~~as~~ the records for which this claim is made ^{could} ~~to~~ determine whether the claim was made legitimately. I've been able to force the FBI to disclose records for which it had asserted this claim and found without exception that the claim was not justified. As you may know, the claim was generally asserted to withhold information provided by informers. Time was also when one could get a list of the withheld records, later a separate sheet identifying each one, which amounts to pretty much the same thing.

If you have not had occasion to learn it, some of the files in which the FBI hides records and that might have been used to withhold are, at headquarters, ~~are~~ "94. Research Matters," and in the field offices, "80. Laboratory Research Matters." The former is used to withhold from FOIA disclosure FBI records on lobbying, leaking and all elements of the media. All sorts of other things that the FBI from time to time regards as sensitive in the sense of potential embarrassment to it is squirreled away there. The field offices have no need for the 80 files because all those records are in its main case files and it uses that classification pretty much as headquarters uses 94. 80 also is used for relations with local authorities and like 94, is never searched to comply with information requests.

Before I tumbled to it, and I think that after I did the FBI xeroxed so certain cross-filings were eliminated, these added filing notations led me to the discovery that in 94 the FBI has quite extensive files on publications and their officials and staffs, writers included, and on the electronic media. I then made duplicate copies of such records that I detected. Whether these would be enough for what I hope Mr. MacAuthor would consider, an article on the FBI's special files on those who inform the people so that our system of representative society can function as it should and the inherent interference with First Amendment rights I do now know. I do think that were Harpers to use FOIA in an effort to write such an article it would have an important one. He or anyone he might want to involve is welcome to access to what I have.

Mr. MacAuthor says that after Hoover's death the FBI had little incentive to change its ways. From my ~~exp~~ experience Hoover's clones control recruiting and promotions so from internally no reform may be expected. It also is that Hoover personally ordered disclosure of what after he died the FBI began to withhold under an assortment of spurious claims.

Thanks and best wishes,

Sorry my typing can't be any better

Harold Weisberg
Harold Weisberg